

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

GARY D. BICE,

Plaintiff,

v.

JOHN JORDAN,

Defendant.

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No. 1:20-cv-3-JAR

**MEMORANDUM AND ORDER**

This matter is before the Court on the motion of Gary D. Bice, prison registration number 177348, for leave to commence this civil action without prepayment of the required filing fee. The motion will be denied, and this case will be dismissed without prejudice to the filing of a fully-paid complaint.

Bice is a prisoner who, while incarcerated, has filed at least three civil actions that were dismissed on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted.<sup>1</sup> The Prison Litigation Reform Act of 1996 provides, in relevant part:

In no event shall a prisoner bring a civil action ... under this section if the prisoner has, on three or more prior occasions, while incarcerated or detained in any facility, brought an action ... in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). Therefore, Bice may proceed in forma pauperis in this action only if he “is under imminent danger of serious physical injury.” *Id.*

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<sup>1</sup> See *Bice v. Ester*, No. 1:10-cv-93-SNLJ (E.D. Mo. Sept. 13, 2010); *Bice v. Commission or Directors of Cape Girardeau City Police Dept.*, No. 1:11-cv-27-SNLJ (E.D. Mo. Feb. 25, 2011); and *Bice v. Eastest*, 1:13-cv-181 SNLJ (E.D. Mo. Mar. 26, 2014).

In the instant complaint, Bice alleges that his personal bank account was compromised, and the defendant failed to respond to his request to investigate the matter. He asks this Court to order the prosecution of the people involved, and the replacement of his money. He also seeks \$10,000 in damages.

Bice's allegations do not establish that he is under imminent danger of serious physical injury. He therefore may not proceed in forma pauperis in this action. Consequently, the Court will deny Bice's motion for leave to proceed in forma pauperis, and dismiss this case without prejudice to the filing of a fully-paid complaint.


Accordingly,

**IT IS HEREBY ORDERED** that Gary D. Bice's motion for leave to proceed in forma pauperis (ECF No. 2) is **DENIED**.

**IT IS FURTHER ORDERED** that this case is **DISMISSED** without prejudice to the filing of a fully-paid complaint. A separate order of dismissal will be entered herewith.

**IT IS FURTHER ORDERED** that Gary D. Bice's motion for the appointment of counsel (ECF No. 3) is **DENIED** as moot.

Dated this 6th day of January, 2020.

  
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JOHN A. ROSS  
UNITED STATES DISTRICT JUDGE